68TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1118

REPEALING ACT PROVIDING FOR CHANGE OF ENTRY

JANUARY 9, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. SINNOTT, from the Committee on the Public Lands, submitted the following

REPORT

[To accompany H. R. 11356]

The Committee on the Public Lands, to whom was referred H. R. 11356, to repeal the act approved January 27, 1922, providing for change of entry, and for other purposes, having considered the same, report it to the House with the recommendation that it do pass without amendment.

The reasons for the enactment of the legislation are fully explained in the letter transmitting the draft of the bill to the chairman of this committee for introduction. The letter is herein set out in full for the information of the House, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 3, 1925.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: I have the honor to inclose herewith for your consideration, and for introduction if you deem proper, a bill to repeal the act of Congress approved January 27, 1922 (42 Stat. 359), entitled "An act to amend section 2372 of the Revised Statutes."

The act in question was reported upon favorably by this department in a letter to the Senate Committee on Public Lands May 19, 1921, and in letters addressed to you September 1 and 10, 1921.

The occasion for the legislation grew out of the construction of section 7 of the act of March 3, 1891, and the ruling of the Supreme Court of the United States in Lane *v.* Hoglund (244 U. S. 175), certain entries having been canceled for failure to comply with the law, fraud, or for other reasons, and the lands entered and improved by others thereafter, and in many cases patents issued to the second entrymen prior to the decision of the Supreme Court above noted. Under that decision, if proceedings were not instituted within two years from date of final proof the entry was held to be confirmed and the subsequent cancellation by this department erroneous.

The result was that the original entrymen in some cases brought suits to have the second entrymen declared trustees for them. The department therefore

felt that some relief should be afforded these innocent parties, and report was so made on S. 1099.

In presenting the matter on the floor of the House, you stated that you were advised by the department that there were some 40 or 50 cases of the kind in the department awaiting adjustment. The department was led to believe that there were comparatively few of such cases, and that equity demanded the enactment of some such legislation.

It now transpires that in addition to the equitable cases which occasioned the legislation, parties are searching the records and acquiring claims from parties and their heirs in cases of timber-culture and other entries canceled from 15 to 23 years ago, and making lieu or scrip selections for other lands, ostensibly in the interest of the original entrymen or their heirs, but quite probably for the benefit of clients or transferees of those who are instigating the filing of the claims. In other words, the act is apparently being made a vehicle of lieu selections somewhat as was the forest lieu act of June 4, 1897, which was repealed by Congress March 3, 1905 (33 Stat. 1264).

It is the opinion of the department that all equitable claims have had opportunity for presentation under said act of January 27, 1922, and that the act is now being used for a purpose not contemplated by this department or by Congress when the law was enacted; that the same reasons which moved Congress to repeal the forest lieu selection act should warrant the repeal of this act.

Sincerely yours,

HUBERT WORK, *Secretary.*